

ESTTA Tracking number: **ESTTA599180**

Filing date: **04/17/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214095
Party	Defendant Happy's Pizza Company
Correspondence Address	MARK D SCHNEIDER GIFFORD KRASS SPRINKLE ANDERSON & CITKOWSKI 2701 TROY CENTER DRIVE SUITE 330, PO BOX 7021 TROY, MI 48007-7021 UNITED STATES docket@patlaw.com, dnichols@patlaw.com
Submission	Other Motions/Papers
Filer's Name	Mark D. Schneider
Filer's e-mail	docket@patlaw.com, dnichols@patlaw.com
Signature	/Mark D. Schneider/
Date	04/17/2014
Attachments	140331 TTAB Amendment SN 85880368 dismissal of opposition.pdf(10811 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Fresh Express Incorporated,	)	Opposition No.: <b>91214095</b>
	)	
Opposer,	)	
	)	Mark: HAPPY'S PIZZA FRESH EXPRESS
v.	)	Ser. No. 85880368
	)	
Happy's Pizza Company,	)	
	)	
Respondent.	)	
_____	)	

**AMENDMENT OF APPLICATION WITH CONSENT AND  
STIPULATION OF DISMISSAL OF OPPOSITION**

Pursuant to 37 C.F.R. § 2.133 and TBMP § 514.02, Applicant, Happy's Pizza Company, hereby amends the subject application (Serial No. 85880368) by deleting International Class 035 including the services: "Retail grocery and prepared food stores."

As reflected by the signature of Opposer's counsel below, Opposer consents to this amendment.

Applicant submits that the foregoing amendment does not add services to or broaden the scope of the services listed in the application. As such, neither republication of the mark nor further examination of the mark is required as a result of this amendment. Accordingly, Applicant respectfully requests that the TTAB approve the amendment without republication of the mark.

**STIPULATION OF DISMISSAL OF OPPOSITION WITH PREJUDICE**

Opposer, having filed its Notice of Opposition to registration of the subject application and Applicant having filed an answer thereto, and the parties having settled their differences and having consented to the entry of this Stipulation of Dismissal;

NOW, THEREFORE, before any testimony has been taken and without any trial or adjudication of any issue of fact or law, and without any admission by any party hereto with respect to any legal or factual matter at issue;

IT IS HEREBY STIPULATED between the parties to the entry of this Stipulation of Dismissal of this Opposition proceeding, as reflected by the signatures of the parties' counsel below.

**WHEREFORE, the parties stipulate that the subject application be amended as stated herein and that the Opposition be dismissed.**

s/E. Lynn Perry/ w/consent  
Perry IP Group, A Law Corporation  
900 Larkspur Landing Circle  
Suite 226  
Larkspur, CA 94939

s/Mark D Schneider/  
GIFFORD KRASS SPRINKLE  
ANDERSON & CITKOWSKI  
2701 Troy Center Dr. Ste 330  
PO Box 7021  
Troy, MI 48007-7021

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **AMENDMENT OF APPLICATION WITH CONSENT AND STIPULATION OF DISMISSAL OF OPPOSITION** was sent via e-mail and first class mail to the following:

E. Lynn Perry  
Perry IP Group A.L.C.  
900 Larkspur Landing Circle, Suite 226  
Larkspur, CA 94939  
lperry@perryip.com

on this 17<sup>th</sup> day of April, 2014.

s/Mark D. Schneider/  
GIFFORD, KRASS, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
2701 Troy Center Drive, Suite 330  
P.O. Box 7021  
Troy, MI 48007-7021  
(248) 647-6000  
(248) 647-5210 – Facsimile